**IN THE HON'BLE HIGH COURT OF JUDICATURE**

**AT BOMBAY, GOA BENCH, AT PORVORIM**

P.I.L. Writ Petition No. /2022

**The Goa Foundation** ….Petitioner

V/s

**The Village Panchayat of**

**Arpora Nagoa & Ors** …Respondents

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**PLACE**: PORVORIM, GOA

**DATE**: 12th April 2022

ADVOCATE FOR THE PETITIONER

**IN THE HON'BLE HIGH COURT OF JUDICATURE**

**AT BOMBAY, GOA BENCH, AT PORVORIM**

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**Arpora Nagoa & Ors** …Respondents

SYNOPSIS AND CHRONOLOGY OF
DATES AND EVENTS

This Petition has been filed seeking an immediate stoppage of the illegal hill-cutting, mud filling and development work being carried out at Sy. Nos 156, 157 and 161 in the village of Arpora, Bardez Taluka. The Petitioner had made a complaint dt. 31.03.2022 to the Village Panchayat of Arpora-Nagoa about the same, and had attached photographs of the heavy machinery and ongoing work at the site. However, to the Petitioner's surprise and anguish, instead of investigating the complaint and taking necessary action, the Village Panchayat has informed the Petitioner that it cannot take

any further action until the Petitioner identifies by name the persons carrying on the work in question. It is the Petitioner's case that the ongoing work is illegal and is being undertaken without statutory permissions from the Panchayat and Planning Authorities. In such circumstances, the Petitioner is aggrieved by the inaction of the Village Panchayat of Arpora Nagoa. Hence this PIL.

## LIST OF DATES AND EVENTS

| Sr. No. | Date | Particulars of events or documents if any | Annexure and page |
|---|---|---|---|
| 1. | 31.03.2022 | Petitioner files complaint of illegal development work with photos and Regional Plan map | **Ann. 3**, at pgs. 21 - 26 |
| 2. | 05.04.2022 | Village Panchayat of Arpora Nagoa replies to the complaint made by the Petitioner | **Ann. 4**, at pg. 27 |
| 3. | 12.04.2022 | Present P.I.L. W.P. is filed | |

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**The Village Panchayat of**
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## QUESTIONS FOR DETERMINATION

## & LIST OF ACTS & AUTHORITIES

1. Whether hill-cutting and development work on a hill contrary to the statutory land use and in an area of natural vegetation can be carried on the plots in question?

**D**

- The Panchayat Raj Act, 1994
- The Goa Town and Country Planning Act, 1974
- The Goa Land Development and Building Construction Regulations, 2010.

*Judgements relied upon*

- Judgement of the Hon'ble Supreme Court dated 12th December 1996 in W.P.(C) 202 /1995, *T.N. Godavarman Thirumulkpad vs. Union of India & Ors.*

- Order of the Hon'ble Supreme Court of India dt. 04th February 2015 in Civil Appeal Diary No. 37942/2014, *Goa Foundation vs. State of Goa & Ors.*

- Judgement of the Hon'ble Supreme Court of India dt. 29th November 2021 in I.A. No. 169030/2019 in W.P.(C) 202 /1995, *T.N. Godavarman Thirumulkpad vs. Union of India & Ors.*

**PLACE**: PORVORIM, GOA
**DATE**: 12th April 2022.

ADVOCATE FOR THE PETITIONER

**IN THE HON'BLE HIGH COURT OF JUDICATURE**
**AT BOMBAY, GOA BENCH, AT PORVORIM**

P.I.L. Writ Petition No. /2022

**IN THE MATTER OF ARTICLE 21, 14, 226 & 227 OF THE CONSTITUTION OF INDIA AND RULE 4(e) OF THE BOMBAY HIGH COURT PUBLIC INTEREST LITIGATION RULES, 2010**

**AND**

**IN THE MATTER OF ILLEGAL HILL CUTTING IN CONTRAVENTION OF S. 17-A OF THE GOA TOWN AND COUNTRY PLANNING ACT, 1974**

**AND**

**IN THE MATTER OF DEVELOPMENTAL WORK BEING CARRIED OUT IN THE VILLAGE OF ARPORA WITHOUT STATUTORY PERMISSIONS FROM THE VILLAGE PANCHAYAT OF ARPORA AND THE NORTH GOA PLANNING AND DEVELOPMENT AUTHORITY**

1. **THE GOA FOUNDATION**
   through its Secretary, Dr. Claude Alvares,
   Age 73 years, Having Regd. Office at
   Room No 7, Above Mapusa Clinic,
   Mapusa, Goa 403507
   PAN No. AAAAG0249C,
   Income: Rs 10 - 15,00,000/- p.a. (approx.),
   Registration No. - 23/Goa/86,
   Email id: goafoundation@gmail.com

……**PETITIONER**

v/s.

1. **THE VILLAGE PANCHAYAT OF ARPORA NAGOA,** through its Secretary, Divan Bhati, Arpora, Bardez, Goa - 403516.

2. **THE TOWN AND COUNTRY PLANNING DEPARTMENT**, Through the Chief Town Planner (Planning), 2nd Floor, Dempo Towers, Patto Plaza, Patto, Panaji, Goa – 403001.

3. **THE DISTRICT COLLECTOR [NORTH GOA],** Collectorate Building, Opposite Municipal Garden, Panaji, Goa – 403001.

4. **THE NORTH GOA PLANNING AND DEVELOPMENT AUTHORITY**, through its Member Secretary, 1st Floor, Archdiocese Building, Mala, Panaji, Goa - 403001.

5. **THE STATE OF GOA,** through its Chief Secretary, Secretariat, Porvorim, Goa - 403521.

6. **M/S INTERNATIONAL AIRCON PVT. LTD.,** r/o Hotel Park Regis [Unit of IAPL Group], Sakwadi, Arpora, Goa – 403509.

….**RESPONDENTS**

(Above addresses are registered addresses of parties)

To,

The Hon'ble Chief Justice

and His Companion Judges,

Bombay High Court at Porvorim, Goa

**THIS HUMBLE PETITION OF THE PETITIONER MOST RESPECTFULLY SHOWS AS UNDER**

**PARTICULARS OF THE CAUSE AGAINST WHICH THIS PIL IS FILED**

1. This PIL writ petition is filed seeking the urgent intervention of this Hon'ble Court in stopping the illegal and extensive hill cutting currently taking place at Sy. Nos. 156, 157 and 161 in the village of Arpora, Bardez Taluka. The Petitioner has made a written complaint to the Respondent No. 1 Village Panchayat, which has rather shockingly expressed its inability to take any action until the Petitioner identifies by the name the persons carrying on the hill cutting work. Hence this PIL.

**PARTICULARS OF THE PETITIONER**

2. The Petitioner is an environment NGO based in Goa who has approached both, this Hon'ble Court and the Hon'ble Supreme Court, time and again over the past three decades, in public interest, for enforcement of the provisions of environment, wildlife, forest, coastal regulation, land use, pollution and mining laws. All its members are citizens of India. The average annual income of the Petitioner organization is between Rs.10 to Rs.15 lakh. The Petitioner states that there is no civil, criminal or revenue litigation involving the Petitioner organization which has or could have a legal nexus with the issue involved in this PIL. Registration certificate and resolution of the petitioner organisation are herein marked and annexed to the petition as **Annexure 1.** Undertaking that the petitioner will disclose the source of information leading to the filing of the PIL is filed by the petitioner and is marked and annexed at **Annexure 2.**

**Particulars of the Respondents**

3. The Respondent No. 1 is the Village Panchayat of Arpora – Nagoa. The Respondent No. 2 is the Town and Country Planning Department, Govt. of Goa. The Respondent No. 3 is the concerned District Collector, North Goa. The Respondent No. 4 is the

North Goa Planning and Development Authority. The Respondent No. 5 is the State of Goa.

**Declaration of the Petitioner**

4. The Petitioner states that this petition is filed by way of public interest. The petitioner does not have any personal interest in the matter. Reliefs claimed are in public interest.

5. The Petitioner states that the entire litigation costs and other charges are being borne by the petitioners.

6. The Petitioner states that adequate research has been conducted in the matter raised through the petition and all relevant material has been annexed to the petition. More may be added, if necessary, at a later stage.

7. The Petitioner states that to the best of their knowledge and research the issues raised in the petition were not dealt with or decided and that a similar or identical petition was not filed earlier by the petitioner on the same matter either in this Hon'ble Court or in the Supreme Court of India.

8. The Petitioner states that this Hon'ble Court has jurisdiction to hear and decide this matter.

9. The Petitioner has understood that in the course of hearing of this petition, the Court may require any security to be furnished towards costs or any other charges and the petitioner shall comply with such charges.

**Facts constituting the cause**

10. Vide a letter dt. 31.03.2022, the Petitioner made a complaint to the Village Panchayat of Arpora Nagoa [*Resp. No. 1*] regarding extensive hill cutting and developmental work being undertaken in Arpora at Sy. No.s 156, 157 and 161 of Arpora Village. Photographs showing the presence of heavy machinery, bulldozers, trucks and the ongoing work which had commenced that week were enclosed along with the complaint. The complaint dt. 31.03.2022 is enclosed and marked as **Annexure 3.**

11. Pursuant to this complaint being made, the Petitioner received a letter dt. 05.04.2022 from the Resp. No. 1. In this letter, the Panchayat stated that the complaint of the Petitioner was considered in the Panchayat meeting held on 05.04.2022. The Panchayat came to the conclusion that as the name of the person/s who were carrying out the said illegalities was not mentioned in the complaint letter, no notices could be issued by the Panchayat.

Accordingly, the Resp. No. 1 asked the Petitioner to identify the person carrying out the illegal activities or submit necessary documents reflecting the identity of such person. The letter from the Resp. No. 1 dt. 05.04.2022 is enclosed as **Annexure 4.**

12. The Petitioner submits that no development can be carried out in the state of Goa without a board being put up on the plot which displays all the permissions obtained for the purpose of development from the various authorities, as per the Goa Land Development and Building Construction Regulations, 2010. There is no such board on the premises and the Panchayat is duty bound to ensure that without such a board, no development can be carried out by any person concerned.

13. It is not the case of the Resp. No. 1 Panchayat that the ongoing development work at Sy. No.s 156, 157 and 161 of Arpora Village is being undertaken pursuant to any License issued by the Village Panchayat; and any Hill Cutting and Technical Clearance issued by the Town and Country Planning Department *[Resp. No. 2]* and Development Permission issued by the North Goa Planning and Development Authority *[Resp. No. 4]* respectively.

14. As such, it is reasonable for the Petitioner to infer thereby that the statutory permissions required for

development work of the nature being undertaken at Sy. No.s 156, 157 and 161 are absent and non-existent, and the ongoing work therefore, is illegal.

15. In such a situation, it is remiss for the Village Panchayat to throw its hands up and adopt the position that it will take action only once the Petitioner identifies the names of the persons carrying on the hill cutting work. At the very least, the Panchayat should have sent its officers to the site to verify the legality of the activities being undertaken. Being the designated local government body, conferred with a multitude of powers under the Panchayat Raj Act, the Panchayat would be in the best position to conduct inquiries and ascertain the identity of the person/s carrying out the work, and take necessary action thereafter in coordination with the relevant State Departments.

16. The Petitioner has already filed a writ petition for protection of the forest on one side of the Baga hill. The present development is being carried out, as can be seen from the photographs, on the other side of the same hill. Such development is expressly forbidden in view of the orders of the Supreme Court of India dated 12.12.1996 in the Godavarman case, read with the order of the Supreme Court dated 29.11.2021, and the prohibitory order of the Supreme Court dated 04.02.2015, which disallowed conversion of such plots with natural vegetation.

**Grounds**

17. The Petitioner is therefore approaching this Hon'ble Court in public interest on the following major grounds, among others:-

    i. Section 66 of the Panchayat Raj Act prohibits any construction within the jurisdiction of a Village Panchayat, without written permission of the Panchayat being accorded under this Section. This requirement is stated in similar terms as per Regulations 3.1 and 3.2 of the Goa Land Development and Building Construction Regulations, 2010.

    ii. Section 17-A of the Goa Town and Country Planning Act, 1974, prohibits any hill cutting activity without prior written permission from the Town and Country Planning Department.

    iii. Section 44 of the Goa Town and Country Planning Act requires development permission from the concerned Planning and Development Authority. Parts of Sy. Nos. 156 and 161 where the hill cutting and developmental work is ongoing are zones as A-2/ Orchard zones as per the finally notified Outline Development Plan 2030, Arpora Nagoa, prepared by the Resp. No. 4 Planning Authority.

iv. The Goa Land Development and Building Construction Regulations 2010 specifically require a Board to be put up at the site on construction/development, listing all the licenses and permissions accorded by Authorities. No such Board is present at the site.

v. The Village Panchayat has not given any construction license for the ongoing hill cutting and developmental work, nor is it aware if statutory permissions as required under other laws have been duly obtained for such work. Being the constitutionally established primary local governmental body, the Panchayat ought to take immediate action and undertake inquiries into the hill cutting and construction work which the Petitioner is aggrieved by.

**Source of Information**

18. The Petitioners are relying on correspondence made with the Respondent No. 1 Village Panchayat of Arpora-Nagoa.

**Delay, if any, in filing the petition**

19. There is no delay in the filing of this petition.

**Representations made**

20. The Petitioner has made a complaint to the Resp. No. 1 Village Panchayat vide a letter dt. 31.03.2022 (enclosed at **Annexure 3**).

**Documents relied upon**

21. List of documents to be relied upon is provided in the index.

**Nature and extent of injury:**

22. The ongoing hill cutting and development work at Sy. No.s 156, 157 and 161 in the village of Arpora, Bardez Taluka is progressing at a rapid pace without the due permissions as required by law. The Village Panchayat has expressed its inability from taking any action at this stage without knowing the identity of the persons carrying on such work, hence, this Petitioner has been constrained to approach this Hon'ble Court.

**Prayers:**

23. The Petitioner is therefore praying for the following reliefs, in public interest:

A. For an order directing the Respondents to restore the land at Sy. No.s 156, 157 and 161 in the village of Arpora, Bardez Taluka back to its original condition of hilly land with vegetation, and report compliance,

B. For costs of this petition;

C. Any other reliefs this Hon'ble Court may be pleased to grant;

**Interim reliefs:**

D. For an order directing the Flying Squad of the Resp. No. 3 to take immediate action to stop any further hill cutting and construction/ development work at Sy. No.s 156, 157 and 161 in the village of Arpora, Bardez Taluka and to file a report before this Hon'ble Court,

E. For ex-parte, ad-interim relief in terms of prayer clause (D)

24. **Caveat**

No notice has been received of lodging a caveat by the opposite parties.

For the above, the Petitioner is very grateful.

**PLACE**: PORVORIM, GOA
**DATE**: 12th April 2022

PETITIONER

**IN THE HON'BLE HIGH COURT OF JUDICATURE**

**AT BOMBAY, GOA BENCH, AT PORVORIM**

P.I.L. Writ Petition No. /2022

**The Goa Foundation** ….Petitioner

V/s

**The Village Panchayat of**
**Arpora Nagoa & Ors** …Respondents

AFFIDAVIT IN SUPPORT OF THE PETITION

I, Dr. Claude Alvares, Indian National, Secretary of the Petitioner organization above named, do solemnly state on oath as under:

1. I say that I have today filed a Writ Petition in public interest for the reliefs sought therein, which has been prepared under the instructions of the Petitioner.

2. I state that there is no personal gain, private motive or oblique reason in filing the PIL.

3. The petitioners are ready to pay costs as ordered by the Court, if it is ultimately held that the petition is frivolous or has been filed for extraneous consideration or that it lacks bonafides.

4. The petitioners shall disclose the source of their information, leading to the filing of the PIL, if and when called upon by the Court to do so.

5. That the contents of paragraphs 1(p), 2 – 9, 10, 11, 12(p), 13, 14(p), 15(p), 16, 17(p), 18, 19, 20, 21, 22 and 24 of the accompanying petition are correct and true are true to the best of my knowledge and information collected by me from the Departments of Government and official gazettes/website/internet which I believe to be true, and the contents of paras 1(p), 12(p), 14(p), 15(p), 17(p), and 23 are my submissions made on legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom.

6. I say that the documents annexed are true copies of their originals.

Solemnly affirmed at Porvorim,
this the 12th day of April 2022 Deponent

# ANNEXURE 1

## C E R T I F I C A T E

**********************************

In view of the Affidavit filed by the Secretary of the Society ' THE GOA FOUNDATION ' for the purpose of 3 (B) (4) of the Societies Registration (Goa Amendment) Act,1998, it is hereby certified that the registration of the said Society, registered under the Societies Registration Act, 1860 under No.23/Goa/86 is hereby renewed for a further period of five years w.e.f. 11-6-2000.

Dated:- 2nd August, 2000.

OFFICE OF INSPECTOR GENERAL SOCIETIES
महानिरीक्षकाचे कार्यालय
पणजी
PANAJI

( P. V. S. Sardessai )
Inspector General
By -Order

Registration renewed till 11-06-2015
Dated 21/01/2011
21/1/2011
Inspector General of Societies/
/District Registrar (North Goa)
By Order

Office of Inspector General of Societies
संस्था महानिरीक्षकाचे कार्यालय

Registration renewed till 11-06-2020
Dated 24-09-2015
24/9/2015
Inspector General of Societies/
/District Registrar (North Goa)
By Order

Office of Inspector General of Societies
संस्था महानिरीक्षक
उत्तर गोवा, पणजी
North Goa, Panaji

Registration renewed till 11-06-2025
Dated 11-09-2020
11/09/2020
Inspector General of Societies/
/District Registrar (North Goa)
By Order

Office of Inspector General of Societies
संस्था महानिरीक्षक
उत्तर गोवा, पणजी
North Goa, Panaji

GOA
FOUNDATION

G-8, St Britto's Apartments, Feira Alta, Mapusa 403507 Goa, INDIA
*Tel:* +91-(0)832-2256479; 2263305 *(also fax)*
*E-mail:* goafoundation@gmail.com *Website:* www.goafoundation.org

## Certified Copy of Resolution of the Goa Foundation

Certified that the resolution copied below was unanimously passed and adopted at the AGM of the Society held on 13.8.2021:

"This AGM hereby authorises either the President or the Secretary to approach appropriate fora including the NGT, High Court and Supreme Court in respect of the public interest matters approved for filing after discussion at the AGM held on 13th August 2021."

(Dr Claude Alvares)

Secretary

# ANNEXURE 2

**IN THE HON'BLE HIGH COURT OF JUDICATURE**

**AT BOMBAY, GOA BENCH, AT PORVORIM**

P.I.L. Writ Petition No. /2022

**The Goa Foundation** ….Petitioner

V/s

**The Village Panchayat of**
**Arpora Nagao & Ors** …Respondents

## UNDERTAKING IN SUPPORT OF THE PETITION

I, Dr. Claude Alvares, Indian National, Secretary of the Petitioner organization above named, undertake that I will disclose the source of information leading to the filing of this Public Interest Litigation if and when called upon by the Court to do so.

**Place**: PORVORIM, GOA
**Date**: 11th April 2022 Petitioner

20

**ANNEXURE 3**

GOA FOUNDATION

G-8, St Britto's Apartments, Feira Alta, Mapusa 403507 Goa, INDIA
*Telephone:* +91-9067176274
*E-mail:* goafoundation@gmail.com *Website:* www.goafoundation.org

31 March 2022

To:

The Village Panchayat of Arpora –Nagoa
Divan Bhati,
Arpora, Bardez,
Goa 403 516

V P ARPORA - NAGOA
Inward No. 14
Date 01/04/2022
Signature

**Sub: Complaint about illegal development at Arpora**

Dear Sir,

I am enclosing photographs of developmental work being undertaken with use of heavy earth moving machine on a hill at Arpora located at Sy. No. 156, 157 & 161 which is totally destructive of the environment. Please see photographs annexed.

The plot is on the hill behind the Regis Hotel, Arpora. Please take action against the persons involved and ensure that the work is stopped immediately. failing which we will assume that this destructive work is being carried out with the permission of the panchayat.

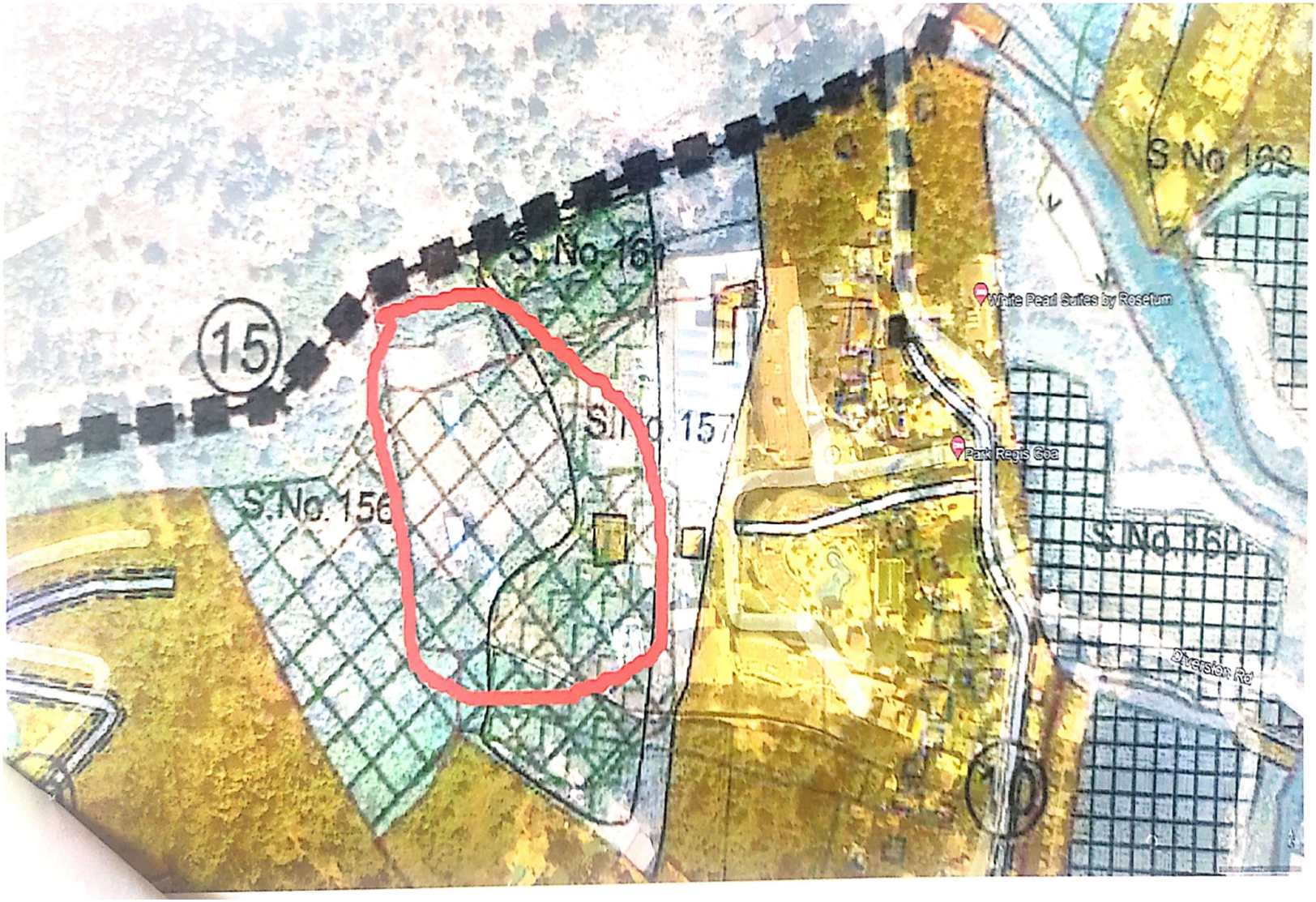
Please inform of any action taken on the basis of this complaint.

Yours sincerely,

Dr Claude Alvares
Director

Encl: Photographs annexed

* Remark. Form 1 XXIV not attached


S.No.161
15
S.No.157
S.No.156
S.No.160
S.No.162
White Pearl Suites by Rosetum
Park Regis Goa
Diversion Rd

ATRIX

TATA HITACHI

ATRIX

TATA HITACHI

# Office of Village Panchayat
## Arpora – Nagoa
Bardez – Goa
vparporanagoa@gmail.com Ph: 2269147


GOA@60

Ref. No.: VP/AN/2022-23/13 Date: 5/04/2022

To,
Dr. Claude Alvares,
Director,
Goa Foundation,
Feira Alta, Mapusa,
Bardez – Goa.

Sub: - Complaint about illegal development at Arpora.

Sir,

This office is in receipt of your complaint letter dated 31/03/2022 which was received in this office on 01/04/2022 vide inward no. 14 with regards to the illegal developmental work being undertaken with use of heavy earth moving machines on a hill located in Sy. No. 156, 157 & 161 of village Arpora.

Further it is informed that the above application was placed before Panchayat body meeting held on 05/04/2022 and after going through the contents in the complaint letter body came to conclusion that name of the opponent who is carrying out the said illegalities were not mentioned and accordingly resolve to direct the complaint to identify the name of person who is executing the said developmental work inorder to issue necessary notices in the said matter.

In view of the above you are kindly requested to identify the person or submit necessary documents reflecting the name of the person who is carrying out the illegalities in Sy. No. 156, 157 & 161 of village Arpora.

This is for your information.

Yours faithfully,

Shri. Shrikrishna R. Nagvekar
Sarpanch
V. P. Arpora - Nagoa
Bardez - Goa

VILLAGE PANCHAYAT ARPORA - NAGOA * BARDEZ - GOA *